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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

P1028 (16221RRUS02)

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on FEBRUARY 14, 2008Signature Amy KasperTyped or printed name Amy Kasper

Application Number

10/642,256

Filed

08/15/03

First Named Inventor

Yuai, Wei

Art Unit

2134

Examiner

Tolentino, Roderick

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

36,366

Registration number

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attorney or agent acting under 37 CFR 1.34.

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February 14, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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P1028 (16221RRUS02)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Yuan, Wei

Serial No.: 10/642,256

Filed: August 15, 2003

For: Method for Providing Media Communication Across Firewalls

Group Art Unit: 2134

Examiner: Tolentino, Roderick

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PRE-APPEAL REQUEST FOR REVIEW IN RESPONSE TO
FINAL OFFICE ACTION MAILED NOVEMBER 15, 2007**

In response to the Office Action mailed June 8, 2007, the Applicant respectfully request reconsideration in light of the following Response.

INTRODUCTORY COMMENTS

1. Claims 1-13 and 15-18 were rejected under 35 U.S.C. § 103(a) as allegedly being anticipated by Trossen et al [20030212764] (hereafter "Trossen") in view of U.S. Patent 6,941,477 to O'Keefe (hereafter "O'Keefe").

2. Claims 14, 19 and 20 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Trossen in view of O'Keefe and in further view of Wu et al [2003021809] (hereafter "Wu").

CERTIFICATE OF MAILING

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: February 14, 2008

Amy Kasper
Amy Kasper

I. INTRODUCTION

In the broadest independent claims, the present invention covers the creation of a pinhole communication port in a firewall through the use of a trusted entity linked to the firewall and located outside the communication network. The trusted entity receives information packets and forwards the information packets to that pinhole communication port address by replacing the packets header address information with the address of the pinhole communication port. It is the trusted entity linked to the pinhole communication port and located outside the communication network, not an access router on the network, which replaces the header information.

The independent claims, as well as the dependent claims, include numerous limitations that are not apparent from the art relied upon by the Examiner. This invention is not simple care-of addressing performed by an access router after the packet is transmitted through the firewall. The focus of the claimed invention is transmitting information packets to pinhole communication ports (with port addresses) in network firewalls by using a third party trusted entity provisioned outside the network to support two other devices communication on the network, and the replacement of the address header information before transmission to the pinhole communication port. It is believed the Examiner's rejection should be reversed, and the claims allowed.

A. The Examiner's Reliance on Trossen and O'Keefe is Misplaced With Respect to Claims 1, 8, and 15

The Examiner relies on Trossen as the primary reference to support his invalidity rejection under 35 U.S.C. §103(a). As shown in Figure 2 of Trossen, the Trossen reference discloses an IP-level hand-off procedure where a Mobile Terminal (105) is initially connected to a first Content Source (111) through current Access Router (109). The Mobile Terminal (105) is handed off to a new Access Router (117) and new Content Source (119), after some initial preliminary communications between these devices.

a. The Disclosure of a Pinhole in a Firewall is Not Enough To Invalidate the Claimed Invention

Trossen only states that “[c]onfiguring the new IP path may also involve creating a pinhole in the firewall that may reside between the new access router 117 and the new content source 119.”

Trossen, paragraph 0024. This statement never discloses, teaches, or suggests any mechanism for creating the pinhole communication port, linking that pinhole communication port to a trusted entity outside the network, or using that communication port as a forwarding address by such a third party trusted entity. Trossen fails to disclose the use of a trusted entity, use of create pinhole request, use of create pinhole response, or updating a routing table with the address designation of a communication pinhole port.

Concluding that the access router in Trossen performing simple care-of addressing after receiving an information packet through the firewall is the same thing as the claimed invention is believed to be impermissible hindsight reconstruction and modification of the prior art using the claimed invention as a roadmap. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). Trossen simply does not support the Examiner’s rejection.

The Examiner’s Final Office Action Rejection admits that there is no teaching in any cited reference as to how the pinhole is created in Trossen, or that such creation is similar to the manner in which the claimed invention requires that creation of a pinhole communication port. The Examiner states “[t]here has to be some form of messaging that goes on in order to create the pinhole,” but he does not indicate what that messaging would be. *Final Rejection*, ¶3, p. 2. First, pinholes can be created without a formal request or messaging, and second, even if some form of messaging were required, there is no indication in the cited references (or anywhere else) that the messaging and use

of the trusted entity as claimed in the present invention is disclosed, taught or suggested in Trossen or any other cited reference.

The Examiner claims that such teachings are shown in the RSVP protocol (RFC 2205), which can be combined with the teachings of Trossen. *Final Office Action*, ¶14, p. 6. The RSVP protocol (RFC 2205), however, does not address pinholes or firewalls. The words “pinhole” and “firewall” do not even appear in that RFC 2205 for the RSVP Protocol. As such, the RSVP protocol does not disclose, teach or suggest the claimed invention when combined with Trossen. Overall, nothing in Trossen or the RSVP protocol discloses, teaches or suggests the claimed invention.

b. No Disclosure in Trossen or O’Keefe of a Trusted Entity Creating a Pinhole in a Firewall

There is nothing in Trossen that suggests that a third party trusted entity would perform address header replacement to forward packets to the pinhole communication port address before transmission through the firewall. Nothing in Trossen discloses a separate “trusted entity” or even suggested that a separate device connected to a firewall and located outside the communication network could be used in conjunction with the Trossen IP hand-off procedure.

The Examiner relies on O’Keefe to teach a “trusted content server,” but the trusted entity in O’Keefe is not used in conjunction with a pinhole communication port. The trusted content server in O’Keefe does not perform any router functions or have any role in creating pinholes in a firewall. In fact, the words “pinhole” and “pinhole communication port” are not used anywhere in the O’Keefe reference. Simply replacing the trusted content server in O’Keefe with the content server in Trossen would still not result in the trusted entity claimed in the present application. Nothing in Trossen or O’Keefe discloses, suggests or teaches the claimed invention.

c. Simple Care-of Addressing in Trossen is Not the Claimed Invention

The Examiner claims that the care-of addressing performed by the access routers is the same as the address header replacement performed by the trusted entity in the claimed invention. *Final Office Action*, ¶4, p. 3. Trossen, however, performs simple care-of addressing after the information packet has been transmitted through the firewall, and the care-of addressing in Trossen has nothing to do with the creation of the pinhole communication port by a trusted entity or the transmission of the information packet to that pinhole communication port address as claimed.

The claimed invention, on the other hand, is using address header replacement before transmission of the information packet to the pinhole communication port and is essential to getting the information pack to that pinhole communication port. This is a fundamental difference between the teachings in Trossen and the claimed invention. Nothing in Trossen discloses, teaches or suggests the claimed invention.

II. CONCLUSION

The claims are distinguishable from the teachings of the cited references. The Applicant believes that the arguments presented traverse the Examiner's 35 U.S.C. § 103 rejection. Independent claims 1, 8, and 15 are allowable because the cited reference fail to combine and disclose, teach, or suggest a trusted entity able to function as claimed.

Since the dependent claims add further limitations to the allowable independent claims, the Applicant believes the dependent claims are likewise allowable. Accordingly, pending claims 1-20 are believed allowable because the claimed invention is not disclosed, taught, or suggested by the cited reference. The Notice of Appeal has been filed with an appropriate fee, and as such, no additional fees are required for filing this response, then the appropriate fees should be deducted from D. Scott Hemingway's Deposit Account No. 501,270.



Respectfully submitted,

A handwritten signature in black ink that reads "D. Scott Hemingway". The signature is written in a cursive style with a large, looping "H".

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